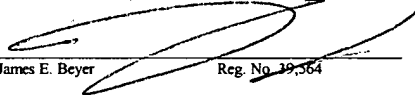


IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of

Applicants : James E. Toney
Serial No. : 10/658,122
Filed : September 9, 2003
Title : WAVELENGTH SEPARATION DEVICES INCORPORATING
MULTI-BARRIER PHOTONIC HETEROSTRUCTURES
Docket : BAT 0089 PA/40078.245
Art Unit : N/A

CERTIFICATE OF MAILING
I hereby certify that this correspondence is being deposited with the
United States Postal Service as first class mail in an envelope addressed
to: Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-
1450 on December 5, 2003.


James E. Beyer Reg. No. 39,364

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

INFORMATION DISCLOSURE STATEMENT
UNDER 37 CFR §§ 1.56, 1.97, AND 1.98


Applicant submits herewith patents, publications, and other information of which he is aware, which he believes may be material, as defined in 37 CFR §1.56(b), to the examination of this application and in respect of which there may be a duty to disclose in accordance with 37 CFR §1.56(a). While the information referred to in this Information Disclosure Statement may be material pursuant to 37 CFR §1.56(b), the filing of this Information Disclosure Statement is not intended to, pursuant to 37 CFR §1.97(h), constitute an admission that any patent, publication, or other information referred to is, or is considered to be, material to the patentability of this invention. Further, pursuant to 37 CFR §1.97(g), the filing of this Statement should not be construed as a statement that a search has been made or that no other material information exists.

This Information Disclosure Statement is being filed within the period set forth in 37 CFR §1.97(b) because it is filed within three months of the filing date of a national application or within three months of the date of entry of the national stage as set forth in 37 CFR §1.491 in an international application.

Serial No. 10/658,122
Docket No. BAT 0089 PA/40078.245

The Office has waived the requirement pursuant to 37 CFR 1.98 (a)(2)(i) for submitting a copy of each cited U.S. patent and each U.S. patent application publication for all U.S. national patent applications filed after June 30, 2003 and for all international applications that have entered the national stage under 35 USC § 371 after June 30, 2003. Therefore, no copies of each cited U.S. patent and each cited U.S. patent application publication are enclosed, but the cited U.S. patents and the cited U.S. patent application publications are listed on PTO/SB/08A.

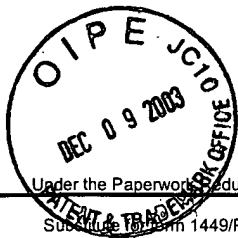
Respectfully submitted,
DINSMORE & SHOHL LLP

By 

James E. Beyer
Registration No. 39,564

One Dayton Centre
One South Main Street, Suite 500
Dayton, Ohio 45402-2023
Telephone: (937) 223-2050
Facsimile: (937) 223-0724

JEB/kec
Encls.



PTO/SB/08A (08-03)

Approved for use through 07/31/2006. OMB 0651-0031

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it contains a valid OMB control number.

Submit to: PTO

**INFORMATION DISCLOSURE
STATEMENT BY APPLICANT**

(Use as many sheets as necessary)

Sheet 1 of 3

Complete if Known

Application Number	10/658,122
Filing Date	September 9, 2003
First Named Inventor	James E. Toney
Art Unit	
Examiner Name	
Attorney Docket Number	BAT 0089 PA/40078.245

U. S. PATENT DOCUMENTS

Examiner Initials*	Cite No. ¹	Document Number	Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear
		Number-Kind Code ² (if known)			
		US- 5,335,240	08/02/1994	Ho et al.	
		US- 5,406,573	04/11/1995	Ozbay et al.	
		US- 5,440,421	08/08/1995	Fan et al.	
		US- 5,600,483	02/04/1997	Fan et al.	
		US- 5,740,287	04/14/1998	Scalora et al.	
		US- 5,784,400	07/21/1998	Joannopoulos et al.	
		US- 5,973,823	10/26/1999	Koops et al.	
		US- 5,998,298	12/07/1999	Fleming et al.	
		US- 6,042,998	03/28/2000	Brueck et al.	
		US- 6,058,127	05/02/2000	Joannopoulos et al.	
		US- 6,075,640	06/13/2000	Nelson	
		US- 6,101,300	08/08/2000	Fan et al.	
		US- 6,134,043	10/17/2000	Johnson et al.	
		US- 2001/0019565 A1	09/06/2001	Iwasaki et al.	
		US- 2002/0009277 A1	01/24/2002	Noda et al.	
		US- 6,388,795	05/14/2002	Fleming et al.	
		US- 6,392,787	05/21/2002	Cirelli et al.	
		US- 6,396,617	05/28/2002	Scalora	
		US- 6,448,997	09/10/2002	Koide	

FOREIGN PATENT DOCUMENTS

Examiner Initials*	Cite No. ¹	Foreign Patent Document	Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages Or Relevant Figures Appear	T ⁶
		Country Code ³ Number ⁴ Kind Code ⁵ (if known)				
		WO 02/44672 A2	06/06/2002	Frick		

Examiner
SignatureDate
Considered

*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant. ¹ Applicant's unique citation designation number (optional). ² See Kinds Codes of USPTO Patent Documents at www.uspto.gov or MPEP 901.04. ³ Enter Office that issued the document, by the two-letter code (WIPO Standard ST.3). ⁴ For Japanese patent documents, the indication of the year of the reign of the Emperor must precede the serial number of the patent document. ⁵ Kind of document by the appropriate symbols as indicated on the document under WIPO Standard ST.16 if possible. ⁶ Applicant is to place a check mark here if English language Translation is attached.

This collection of information is required by 37 CFR 1.97 and 1.98. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND**

TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 (1-800-786-9199) and select option 2.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it contains a valid OMB control number.

Substitute for

INFORMATION DISCLOSURE STATEMENT BY APPLICANT

(Use as many sheets as necessary)

Sheet	2	of	3
-------	---	----	---

Complete if Known

Application Number	10/658,122
Filing Date	September 9, 2003
First Named Inventor	James E. Toney
Art Unit	
Examiner Name	
Attorney Docket Number	BAT 0089 PA/40078.245

U. S. PATENT DOCUMENTS

[illegible]

FOREIGN PATENT DOCUMENTS

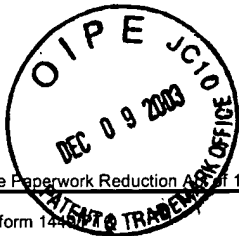
[illegible]

Examiner Signature		Date Considered	
-----------------------	--	--------------------	--

*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant. ¹ Applicant's unique citation designation number (optional). ² See Kinds Codes of USPTO Patent Documents at www.uspto.gov or MPEP 901.04. ³ Enter Office that issued the document, by the two-letter code (WIPO Standard ST.3). ⁴ For Japanese patent documents, the indication of the year of the reign of the Emperor must precede the serial number of the patent document. ⁵ Kind of document by the appropriate symbols as indicated on the document under WIPO Standard ST.16 if possible. ⁶ Applicant is to place a check mark here if English language Translation is attached.

This collection of information is required by 37 CFR 1.97 and 1.98. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 (1-800-786-9199) and select option 2.



PTO/SB/08B (08-03)

Approved for use through 07/31/2006. OMB 0651-0031

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it contains a valid OMB control number.

Substitute for form 1446

**INFORMATION DISCLOSURE
STATEMENT BY APPLICANT**

(Use as many sheets as necessary)

C m p l e i f K n w n

Applicati n Number	10/658,122
Filing Date	September 9, 2003
First Named Inventor	James E. Toney
Art Unit	
Examiner Name	
Attorney Docket Number	BAT 0089 PA/40078.245

Sheet 3 of 3

NON PATENT LITERATURE DOCUMENTS

Examiner Initials*	Cite No. ¹	Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s), volume-issue number(s), publisher, city and/or country where published.	T ²
		SATO et al.; 3-D Photonic-Crystal Heterostructures: Fabrication and In-Line Resonator; IEEE Photonics Technology Letters; June 2003; pgs. 816 - 818; Vol. 15, No. 6.	
		JOHN et al.; Photonic Band Gap Materials: A Semiconductor for Light; pgs. 1- 23.	
		FAN et al.; Channel Drop Filters in Photonic Crystals; Optics Express; July 1998; pgs. 4 - 11; Vol. 3, No. 1.	

Examiner
SignatureDate
Considered

*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

¹ Applicant's unique citation designation number (optional). ² Applicant is to place a check mark here if English language Translation is attached. This collection of information is required by 37 CFR 1.98. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 (1-800-786-9199) and select option 2.